

# SENATE RECORD VOTE ANALYSIS

104th Congress  
2nd Session

Vote No. 83

April 25, 1996, 3:00 p.m.  
Page S-4150 Temp. Record

## ILLEGAL IMMIGRATION/Legal Immigration Priorities and New Limits

**SUBJECT:** Immigration Control and Financial Responsibility Act of 1996 . . . S. 1664. Simpson amendment No. 3739 to the Simpson amendment No. 3725 to the Simpson motion to recommit with instructions.

### ACTION: AMENDMENT REJECTED, 20-80

**SYNOPSIS:** As reported, S. 1664, the Immigration Control and Financial Responsibility Act of 1996, will address the issue of illegal immigration: by increasing the number of Border Patrol and investigative personnel; by establishing pilot programs to improve the system used by employers to verify citizenship or work-authorized alien status; by increasing penalties for alien smuggling and document fraud, by reforming asylum, exclusion, and deportation laws and procedures; and by reducing the use of welfare by aliens.

The Simpson motion to recommit with instructions would direct the Judiciary Committee to report the bill back forthwith.

The Simpson amendment to the motion would add a section to the bill that would require non-immigrants who entered the United States on student visas in order to attend elementary or secondary school to pay the costs of that attendance unless the school waived that payment. Further, failure of a student on a student visa to remain enrolled in school would be grounds for deportation and exclusion.

**The Simpson second-degree amendment** would set a temporary limit of 480,000 on family-sponsored immigration for each of fiscal years 1997-2001 (the current level for family-sponsored immigration is 480,000, though that level is not a hard cap because it does not include immediate relatives of citizens; the Immigration and Naturalization Service (INS) announced after this bill reached the floor that total family-sponsored immigration for FY 1995 was 1.1 million, and for FY 1996 it estimates that it will reach 934,000). The following priority categories, in order, would be set for issuing family-sponsored visas during those 5 years, with visas being available for each lower category to the extent that they were not needed for immigrants in higher categories:

- immediate relatives of citizens (immediate relatives would be defined as spouses and minor children, and parents if the citizens were 21 years old or older);
- spouses and minor children of permanent resident aliens;

(See other side)

YEAS (20)		NAYS (80)				NOT VOTING (0)	
Republicans (13 or 25%)	Democrats (7 or 15%)	Republicans (40 or 75%)		Democrats (40 or 85%)		Republicans (0)	Democrats (0)
Brown	Baucus	Abraham	Hatfield	Akaka	Kerrey		
Burns	Bryan	Ashcroft	Helms	Biden	Kerry		
Cohen	Byrd	Bennett	Hutchison	Bingaman	Kohl		
Faircloth	Exon	Bond	Inhofe	Boxer	Lautenberg		
Grassley	Hollings	Campbell	Kempthorne	Bradley	Leahy		
Jeffords	Johnston	Chafee	Lugar	Breaux	Levin		
Kassebaum	Reid	Coats	Mack	Bumpers	Lieberman		
Kyl		Cochran	McCain	Conrad	Mikulski		
Lott		Coverdell	McConnell	Daschle	Moseley-Braun		
Roth		Craig	Murkowski	Dodd	Moynihan		
Shelby		D'Amato	Nickles	Dorgan	Murray		
Simpson		DeWine	Pressler	Feingold	Nunn		
Thomas		Dole	Santorum	Feinstein	Pell		
		Domenici	Smith	Ford	Pryor		
		Frist	Snowe	Glenn	Robb		
		Gorton	Specter	Graham	Rockefeller		
		Gramm	Stevens	Harkin	Sarbanes		
		Grams	Thompson	Heflin	Simon		
		Gregg	Thurmond	Inouye	Wellstone		
		Hatch	Warner	Kennedy	Wyden		

#### EXPLANATION OF ABSENCE:

- 1—Official Business
- 2—Necessarily Absent
- 3—Illness
- 4—Other

#### SYMBOLS:

- AY—Announced Yea  
AN—Announced Nay  
PY—Paired Yea  
PN—Paired Nay

- unmarried adult children of citizens;
- married adult children of citizens;
- unmarried adult children of permanent resident aliens; and
- brothers and sisters of citizens.

The amendment would also place some limits on the number of immigrants who could enter from any one country.

**Those favoring** the amendment contended:

The Simpson amendment would put a hard cap on legal immigration for the next 5 years and during that time would take care of the current backlog of close family members of Americans who are waiting to enter the country. No one is arguing for ending immigration. America was built by immigrants, and will continue to open its doors to people who wish to live and work in a free land. However, there is a huge difference between favoring immigration and favoring unlimited immigration. The argument is over how many people should be allowed to enter each year. Some Senators have suggested that we should not have brought this argument to a bill on illegal immigration, but in our opinion the distinction they are drawing, as a practical matter, does not really exist. Enacting the Simpson amendment would have a huge impact on illegal immigration, and thus clearly belongs on this bill.

Under current law, there is a cap on legal family-sponsored immigration of 480,000. However, it is a "pierceable" cap, because no limit is applied on bringing in the spouses and minor children of citizens. The 480,000 is allocated among other categories, such as brothers and sisters and the spouses and minor children of permanent resident aliens. The cap was set in 1990 when Congress raised legal immigration by 37 percent. The feeling then was that employer sanctions on hiring illegal aliens would reduce their number, so there would be additional room for legal immigrants. However, that reduction has not occurred. In 1986, many illegal aliens were granted citizenship and new sanctions for employers were established, but the number of illegal aliens has climbed up to approximately 4 million, with approximately 350,000 more arriving each year.

The result of these changes is that a large number of formerly illegal aliens, plus a higher number of legal aliens, have become citizens and are seeking to bring over immediate family and other family members. Huge waiting lists have developed in different preference categories for admission--in total, 3.7 million people are on waiting lists, 1.7 million of whom are in the brother and sister category, and 1.1 million of whom are in the spouses and minor children category for permanent resident aliens. With the spouses and minor children of citizens not counting under the 480,000 cap, the number of legal aliens who are being admitted has also been rising. In fact, we recently found out that the Immigration and Naturalization Service (INS) has given us false estimates of the growth rate in legal immigration that it expects in the next few years. Instead of modest growth, it expects a growth rate of 41 percent.

We find any growth rate in family-sponsored immigration troubling for a number of reasons. First, more than 83 percent of Americans favor lower immigration levels, with 70 percent advocating admitting less than 300,000 per year. They certainly do not want to see the INS's predictions of approximately 1 million legal immigrants next year come true. Second, we need to reduce the current backlogs in other preference categories, particularly for the spouses and minor children of permanent residents. Husbands and wives should not be separated from each other or from their little children. As a humanitarian matter, we need to reduce these backlogs. To be sure, a large number of the people in these preference categories, as in all preference categories, have entered the country illegally rather than stay apart from their families. Still, large numbers also have not, and they are suffering as a result of the backlog. We should not put more people on the lists until we have taken care of the current mess. Third, it costs school districts 50 percent more to educate immigrant children, mostly due to language difficulties. Fourth, immigrants disproportionately use welfare services. This change is new and significant. In 1970, immigrant households were less likely to be on welfare; today, they are 50 percent more likely than native-born Americans to receive Aid to Families with Dependent Children, 75 percent more likely to receive Supplemental Security Income, 64 percent more likely to receive Medicaid, 42 percent more likely to receive food stamps, and 27 percent more likely to receive public housing assistance. The hard workers of yesteryear are becoming the dregs of today. Fifth, for those immigrants who do work, they are taking scarce jobs in a weak economy. For the most part, those jobs are in low-wage areas, which further depresses wages for low-wage Americans.

Immigration, both legal and illegal, is escalating at an alarming rate. We need a short breathing spell to give our country time to assimilate the recent immigrants and their families. The Simpson amendment would give us that breathing spell. For the next 5 years, we estimate that around 350,000 people would come in as immediate family members of citizens, and the rest that would come in would be the spouses and children of permanent resident aliens. If, as we suspect, these two categories ended up using the available slots, then new people would not be added to the waiting lists in the other categories.

The reason for not putting new people on the waiting lists, and thus approving them for eventual admission, is that being on those lists creates an entitlement in some people's mind to enter the country. They know that in 5, 10, or 15 years down the line they will be given admission, so they jump the gun and enter illegally. Some Senators have drawn the conclusion from this fact that we should not give preference to these people because they are already here. We disagree; doing so would obviously just result in much higher rates of immigration. We think the solution is to whittle the waiting lists down to a manageable level.

A number of Senators have also complained that the Simpson amendment would almost certainly result in no visas for the next 5 years for certain preference categories, such as married adult children and brothers and sisters. We agree, but we note that there

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are only two alternatives--either let the number of immigrants rise, or limit the visas that go to the spouses and minor children of citizens and permanent residents. We, and the American people, think that a cap of 480,000 is already very high; we will not support a higher cap. Under that cap, we want to bring in close family members. We want to reunite the nuclear family, not the extended family. Under current immigration law, it is not uncommon for a single immigrant, by sponsoring various relatives, who in turn sponsor relatives, to bring over dozens of family members, many of whom have no blood relationship at all to the original immigrant. This so-called chain migration would be stopped for the duration of the Simpson amendment in favor of bringing over more close family members who are on waiting lists precisely because so many slots are taken by chain immigrants.

Our colleagues have argued against this amendment by making a theoretical distinction between illegal and legal immigration that for all practical matters does not exist. If there really were no overlap between the people who come to this country legally and those who sneak in, their point would have some validity, but there is a tremendous amount of overlap. In fact, more than half of all illegal immigrants are people who entered the country legally and then overstayed their visas. Further, as we have already mentioned, many of the rest of the illegal immigrants are people who have been approved for entry into the United States, but are on waiting lists. For example, an estimated 65 percent of the spouses and children in the family-sponsored second preference category have already illegally entered the country in anticipation of their approval. To a very large extent, the issues of illegal and legal immigration are one and the same.

We think many Senators do not want us to offer this amendment because they have no intention of allowing a bill on legal immigration to reach the floor this year. They favor letting the rate of legal immigration continue to grow. We do not. We suspect that this vote will mark the only chance we get to consider this issue this Congress. We therefore urge our colleagues to join us in passing the Simpson amendment.

**Those opposing** the amendment contended:

We oppose the Simpson amendment because it deals with legal immigration, and thus does not belong on this illegal immigration bill, and because it is wrong on substance. This issue is very complex, and very controversial. Still, though we know that most Senators have not yet had time to study it in depth, we are certain that they will recognize the unacceptability of the extreme provisions in the Simpson amendment. We agree with the Senator from Wyoming that some of the problems that he has described exist, but we disagree that his amendment would solve those problems.

Three basic arguments have been made in support of the proposition that illegal and legal immigration are one and the same. First, it has been noted that half of the illegal aliens who are in America entered legally. On this point our colleagues are confusing legal entry with legal immigration. Those illegal immigrants were never legal immigrants--they were only let in the country for limited time periods for specific purposes. Additionally, this bill takes steps to stop this problem by imposing new penalties on those people who overstay their visas. Second, our colleagues have noted that many legal immigrants enter the country while they are still on waiting lists to enter. They are correct but this fact does not affect the number of legal immigrants. The total number admitted over several years remains the same. The purpose of having legal immigration is to control the number of people entering as well as who is entering. When legal immigrants enter early it changes neither the number of people who enter over time or who enters. Therefore, we do not see these immigrants as part of the illegal immigration problem. Third, our colleagues have noted that the United States naturalized many illegal immigrants in 1986. Again, they are correct, but their argument in this case is tautological--illegal immigrants were the same as legal immigrants only because Congress said so.

Congress legalized those aliens as part of a broad reform effort to end illegal immigration. It decided to raise the level of legal immigration, to impose punishments on employers who hired illegal aliens, and to naturalize illegal aliens who were already in the country. It was hoped that together these actions would immediately and drastically reduce the number of illegal aliens, would stop further aliens from coming because they would not get jobs, and would result in firm control over the number of people who entered. The effort to control illegal immigration has not been successful, largely because illegal aliens are allowed to receive various welfare benefits. Making it more difficult for illegal aliens to get jobs just made it more likely that they would go on welfare. For legal immigrants, though, the results have been as expected. Most legal immigrants who are let in the country come in on family-sponsored visas. The purpose is to reunite families. Because it is most critical to reunite spouses and minor children with their families, no cap applies to visas for those purposes. Otherwise, a 480,000 cap applies. The large number of immigrants who have recently gained their citizenship as a result of the reform efforts are now bringing over their immediate family members, causing a short-term surge in the number of immigrants above 480,000. This surge was anticipated, and it will decline over the next few years.

Our colleagues have noted this surge with alarm. The actual size of the expected increase in the next few years is in dispute, but it will unquestionably be substantial (perhaps more than 40 percent). Just as unquestionably, though, it will be temporary. After a few years, it will decline back to the rate of 2 immigrants per year per every 1000 United States citizens. The legal immigration rate has been at that historically low level for about the past 30 years. At its peak, between 1900 and 1910, immigration was as high as 10 immigrants per year per every 1000 United States citizens. For throughout its history, the United States has taken in immigrants at the current rate or at a greater rate and it has thrived. We have no reason to believe that it cannot continue to do so, and we have every reason to believe that it should.

Most of us know how our ancestors came to America. Many of us have stories of penniless ancestors, with no education and not speaking a word of English, who came here and worked tirelessly to build new lives for themselves and their families. Life was hard, but they had opportunity, and they made the most of it. We have pride in their success, and we tend to believe that they were somehow unique--we see them as being "different" and better than those people who stayed behind. The truth, though, is that America is not a great and powerful country because the most brilliant and talented people in the world came to live here. America is a great and powerful country because it was here that ordinary people have had more opportunity and more freedom than any other people who have ever lived on the face of the Earth. With that opportunity and freedom, ordinary people have been able to do extraordinary things. While it is not so reassuring about ourselves to say it, it is very reassuring about our country to know it. Most of us would be peasants in almost any other country in the world. Americans are extraordinary because America is extraordinary.

Throughout history, immigrants have contributed greatly to America's growth and vitality, and they continue to do so today. It is true, as our colleagues have noted, that many immigrants now go on welfare, and such immigrants are not welcome, but it is also true that this bill takes care of that problem. Immigrants will not be allowed to go on welfare--they will come here to work, and if they are in need they will rely on their sponsors, not the Government. Only if their sponsors are unable to give help will they be allowed to go on welfare. (This problem would have been solved by now except President Clinton vetoed the welfare reform bill that would have stopped welfare for immigrants.)

Under the Simpson amendment, nearly every immigrant allowed to enter under the 480,000 cap would be an immediate family member who does not currently count under that cap. In effect, the amendment would place a moratorium for 5 years on all legal immigration except for family members. Further, because many of those members are already in the country illegally, the amendment would effectively stop most new entries into the country. Though we are not experts on immigration, we know that the non-immediate family immigrants tend to be very productive. For instance, most of the slots in the brother and sister preference category are taken by very highly skilled Indians. When they come to America, they do not go on welfare; in fact, they are doctors, engineers, businessmen, and other professionals who as a group have a higher income level than any other group in America. Some people may look at it as a zero-sum game, and say that they are taking jobs that native-born Americans could have held. We do not. We recognize that such immigrants cause the economy to grow, and grow substantially, making everyone better off.

Legal immigration is a separate issue from illegal immigration, and should be considered separately. Further, even a short examination of how the Simpson amendment would work in practice shows that it is an extreme, albeit short-term, rejection of our country's long tradition of welcoming immigrants. For these two reasons we urge our colleagues to join us in voting against it.